Sectt. II-27—40,000—14-10-36.

Home **(1938) Department.**

Ms SERIES.

G.O. No. 4984

DATED 14.X1938

[Despatch Abstract.]

Prisoners —

Advisory Board — Central Jail, Bellary — No. 9263, Sampanni Posappa — Conditional Release — Sanctioned

Scott. II-27—40,000—14-10-38.

Home **(1938) Department.**

Mg **SERIES**

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[Despatch Abstract.]

Prisoners —

Advisory Board — Central jail, Bellary — No. 9263, Sampanni Pampa — — Conditional Release — Sanctioned

C.F. 30.

Jail DEPARTMENT.

Received ..... 19 — 5-OCT 1938 — *Registered* 33935 D 5/6 19

Subject.

Advisory Board - Central Jail, Bellary - Convict No.9263, Sampanni Perappa - Not recommended - Submitted for orders -

ENCLOSURES.
No. .....
.....
Spare copies .....

No. 2237/S8/38.

Station Mount Road, Madras *Dated the* 1st October 1938.

From (Name) Lieut-Col.H.C. Contractor, M.B., I.M.S.,
(Designation) Inspector-General of Prisons.

To The Secretary to the Government of Madras,
Home Department.

Sir,

I submit for the orders of Government the following papers of convict No.9263, Sampanni Porappa of the Central ~~Jail~~ Jail, Bellary whose case was not recommended by the - Advisory Board meeting held at the Central Jail, Vellore on the 22nd Septr.1938 under the presidency of the District - Magistrate.-

(1). Form of conditional release.
(2). Nominal roll.
(3). Reports of the Police and the District Magistrate
(4). Copies of judgments.

2. I agree with the findings of the Board and support its recommendation.

Lieut-Col.I.M.S.,
Inspector-General of Prisons.

vss.

1,002—19-6-38.

HOME DEPARTMENT

RELEASE UNDER THE ADVISORY BOARD SCHEME.

33935 From the G.O. (Prisons) No. 2237/52/38 dt. 1.10.38

1. Name of Jail .. .. Central Jail, Bellary

2. Number and name of convict .. .. 9263 Sampanni Porappa (age 37 yrs)

3. Name of village, taluk and district .. .. Thalavoor, Hospet, Bellary

4. Court and case No. .. .. .. Bellary S.C. 59/24 (CA 113/25)

5. Sentence and date with section of law .. T.P. for life
28/7/25
302 ~~I.P.C.~~ IPC

6. Date of completion of sentence under 2/3 rule. 29.4.36

7. Unexpired portion of sentence on 1.10.38 — Y M D 3 . 10 . 3

8. Conduct in jail .. .. Exemplary

9. Recommendation of D. M. (~~C.P.M.~~) .. } Not recommended. X

10. Recommendation of Board .. ..

[Papers attached E].

(R) HIS

For orders. The case of the convict was considered under the 14-yrs rule & his release refused in G.O. No 3285 Home-d 23.11.1936.
The case of the convict was also considered under the premature release Scheme. His release was .... refused in Go. 2056 Home dy 4.4.38 — p 86 (J).
If the release of the convict is refused a period may be fixed for resubmission of his case with ref. to para xiii) of G.O. 21 Home dy 31.3.38

(U) Pls Ray 10/8

2

The premature release of the convict has not been recommended either by the Supdt. or the Advisory Board. His release may be refused & his case may be ordered to be submitted again after a year.

33735 D
12/10

11/10

11.10.38

M (C.P.) I am not able to understand the reasoning of the D.S.P. When the accused had robbed & murdered where is the occasion for him to have any merciful regard towards the members of the family of the deceased - And if it is for having brought him to book, then in no case of conviction can a man be released under this Scheme. - He has served over 12 yrs in prison Nothing wonderful is going to happen either in his mentality or in his the village by allowing another three years to run before he is released. He may be released 12/10

Draft sent

12/10

13 OCT 1938

12/X

13.10.38

D.V. 14/X

DRAFT FOR APPROVAL.

C.T.16.

	Date.	Initials.
When received for fair copying ..	14/X	
When copied ..		
When examined..		✓
When signed ..		
When despatched.		

SUBJECT:— Home Dept

Prisoners

Advisory Bd - C. J. Bellary

No. 9263, Sampanni Parappa - Conditional release - Sanctioned.

READ AGAIN _____, dated _____ 19____.

" " _____ " _____ 19____.

READ *ALSO*:—

No. 33935 From the I. G. of Prisons No. 2237/52, dated 1.10.1938 CY

" _____ " _____ " _____ " _____ 19____

" _____ " _____ " _____ " _____ 19____

Order ~~Resolution~~ ~~Rout.~~ Ms. No. 4984, dated 14.X.38 19____.

In exercise of the powers conferred by Sect. 401 Cr. P. 1898, the Govt. of Madras are hereby pleased to remit the unexpired portion of the sentence passed on ~~convictors~~ the prisoner mentioned in the annexure to these proceedings subject to the condition that he shall keep good conduct & keep the peace for a period of two years.

annexure

[H.E. cols 1-5 of Prg. containing Section of Law in col: 5].

Dpd. by Van / Post / Messenger

Dpr.'s Initials. SN

Date 15/10/1938

To

The I. G. of Prisons ✓

Supt. C. J. Bellary ✓

Home (for C.J.) ✓

Dy. Bellary ✓

Dy. of Police (with S(C)) ✓

Secy, Madras Prov. DPA Society ✓

Rai 13/X

13/10

13/X

Judl. (Jail II) 82—2,632—25-5-34.

Roll of convict recommended for conditional release under the Intermediate sentences scheme sanctioned in G.O. No. 667, Law (General) Department dated 26th February 1923.

1. Name of jail	Central Jail, Bellary.
2. Convict number	9263 "A"
3. Name of convict	Sampanni Porappa.
4. Name of village, taluk and district ..	Thaloor, Hospet, Bellary.
5. Court by which the prisoner was convicted and case number.	Sessions Judge, Bellary. S.C.No.59/1924.
6. Section of the I.P.C. or other law under which convicted.	302 and 326. I.P.C.,
7. Date of sentence	28-1-1925.
8. Period of sentence	Transportation for Life.
9. Date on which convict completed two-thirds of his sentence.	29-4-1936.
10. Unexpired portion of sentence on date of recommendation by the Board, including remission earned (remission granted in celebration of public events should be excluded). 22.9.38	~~6 yr. 8 m. 15 d.~~ 3 - 10 - 25
11. Full "police" history with recommendation of the District Superintendent of Police. (portion in another file)	This convict is a native of Thaloor village in Gadiganoor station limits and a Lingayat by caste. Prior to his conviction in S.C.No.59/24 on the file of the Sessions Judge, Bellary, this convict was earning his livelihood by doing agricultural cooly work and selling betel leaves. He was a rowdy and gambler; he lost all his property in gambling and there is nothing for him in the village now to fall back upon immediately he is released. 2. As this convict, with three others committed a brutal murder and robbery, and as there is a likelihood of his taking revenge on the other members of the deceased's family who are still afraid of him, I do not consider he can be released without risk of injury to the community. Sd/- A.J. King. Dt. Supdt. of Police.
12. Recommendation of the District Magistrate. 9 In G.O.4399 Home 10.9.38 Pardon Board's recommendation	In another reference I have not recommended the premature release of one Eriga who was convicted and sentenced along with this convict. I do not recommend the premature release of this convict also. Sd/- Dt. Magte. Bellary.
13. Remark of the Superintendent of the Jail on the conduct of the convict in prison.	Exemplary
14. Recommendation of the Advisory Board with detailed reasons when the Board differs from the Superintendent of Police or the District Magistrate.	Not recommended.

Central Jail, Bellary,
Dated 22. 9. 1938.

Captain,
Superintendent.

Secretary to the Advisory Board,
Central Jail, Vellore.
22.9.38

FORM No. 52

Judl. (Jail-II)-27—7,396—1-4-37.

(See Rule 879, Jail Manual.)

Nominal Roll of Male * Convict No. † 9263 "A", **Name** Sampanna Porappa s/o Basavanagoud. **Residence (Village, Taluk and District)** Talur, Hospet Bellary **Caste** Hindu, Gunjagal **Present Age** 37 **years, Occupation** Cultivation

Section and Code under which imprisoned.	Original sentence of order and date.	Adjudicating Court and Calendar number of case.	Unexpired term of sentence after deducting remission earned. Y.	M.	D.	Present state of health and fitness to undertake a journey.‡	Result of appeal (if any).	Conduct in Jail.	Remarks.
302 + 326 I.P.C.	Transportation for life Sec 57 (3) 25. 25.	Sessions Judge Bellary S.C. 39 of 24.	3	10	25		Dismissed in Cr. Appl No. 112/25		Remission earned up to end of preceding month 890 days.
			~~2~~	~~6~~	~~6~~	X T	~~Declined~~ MR MA	good	Casual "C" class.
			or 22	9	38	A			Rice diet.

(R)

(P)

(J)

1 The Case was not recommended under 14 years rule & the Government directed to submit the case on completion of 20 years including remission — vide Govt. No. 3285. Home D/ 23/11/'36. Under premature release scheme also the case was not recommended — vide Govt. No. No. 2056. Home D/ 19-4-38. In Govt. No. 3014. Home D/ 14-6-'38 — T. Court refused remission

* Strike out and add "Female" when necessary.

† After the prisoner's number, add his class A or B, according as he is classed as a Casual (and whether Star) or Habitual, respectively, and after the letter, add the number of previous convictions, thus—No. 3742 B-2.

‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical Officer.

NOTE.—Personal and descriptive marks are to be given on the reverse when (1) rolls accompany prisoners transferred, (2) police assistance is sought for the recapture of an escaped prisoner.

Bellary Central JAIL,
26-8 1938.

27. 1. 45
22. 9. 38.
5. 4. 6
~~20~~. 9. 2
25. 6. 3

30) 890 (29
290
20

Superintendent. Captain

C.F. 32.

Magisterial DEPARTMENT.

In reply please quote number, date and short title.*

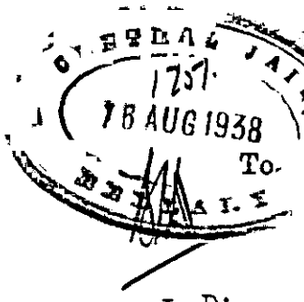
Received _____ *Registered* _____

From (Name) J.W. Pritchard Esq., I.C.S.,

(Designation) District Magistrate

(Station) Bellary;

Telegraphic Address _____



To.

The Superintendent,
Central Jail, BELLARY.

L.Dis. *No*1000/38, *dated* 13-8-1938

Sir,

Enclosures _____

_____

_____

Spare Copies _____

Convicts - Nos. 2508. 6717 and 9263 - premature release.

Ref: Your No. 2204 J.R. dated 21-7-1938.

---

1. Convict No. 2508 M. Hussain.

The convict (Madiga Hussaini of Adoni) was ordered to be released in G.O. No. Ms. 1458 dated 18-3-1938 (vide your letter No. R. 1566 dated 24/5/38). Your reference again regarding the premature release of this court appears to be a mistake.

2. Convict No. 6717

I endorse the remarks of the District Superintendent of Police.

3. Convict No. 9263

In another reference, I have not recommended the premature release of one Eruga who was convicted and sentenced along with this convict. I do not recommend the premature release of this convict also.

I forward herewith the reports of the District Superintendent of Police regarding the three convicts.

(by order)

K. Divakara Rao 14/8

for Huzur Head Clerk.

P.S. 14/8.

4

7

Form. 32.

In reply, please quote number, date and short title.

POLICE DEPARTMENT.

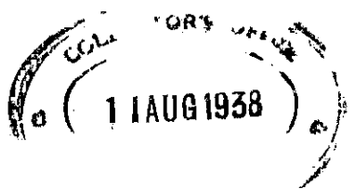
*Received*_____ *Registered*_____

From (Name) A.J.King Esquire.,

(Designation) Dist.Superintendent of Police,B

Post Box_____, (STATION) ~~Bellary.~~

*Telegraphic Address*_____



To

The Superintendent, Central Jail,Bellary.
Through The District Magistrate, Bellary.

R.~~No.264/Stat1/38~~ *Dated* 10th August 1938.

Sir,

* Sub:- Convict No.9263-Sampanni Porappa-
Premature release-report.

Ref:- Your letter No.2204/J.R.dated 21-7-38.

ENCLOSURES_____

SPARE COPIES_____

1. This convict is a native of Thaloor village in Gadiganoor station limits and a Lingayat by caste. Prior to his conviction in S.C.No.59/24 on the file of the Sessions Judge,Bellary, this convict was earning his livelihood by doing agricultural cooly work and selling betel leaves He was a rowdy and gambler; he lost all his property in gambling and there is nothing for him in the village now to fall back upon immediately he is released.

2. As this convict, with three others committed a brutal murder and robbery, and as there is a likelihood of his taking revenge on the other members of the deceased's family who are still afraid of him, I do not consider he can be released without risk of injury to the community.

Sd) A.J.King,
10-8-38.
Dist.Suptdt.of Police.

(By order)

Sr. Manager.

10-8-38

In the High Court of Judicature at Madras,

Thursday, the thirtieth day of April,

One thousand nine Hundred and twenty five.

Present:-

The Honourable Mr.Justice Devadoss,

and

The Honourable Mr.Justice Wallace.

Criminal Appeal No.113 of 1925.

1.Halti Basappa,
2.Sampanni Porappa,
3.Boya Bhima,
4.Madiga Iruga .. .. .. Appellants(Prisoners).

Appeal against the Order of the Court of Session of the Bellary Division in Case No.59 of the Calendar for 1924.

This Appeal coming on for hearing after the service of notice on the appellants and Counsel not appearing on their behalf upon perusing the Petition of Appeal and the record of the evidence and proceedings before the Court of Session and upon hearing the arguments of Mr.K.N.Ganapati for the Public Prosecutor on behalf of the Crown, the Court delivered the following J u d g m e n t:-

The appellants have been convicted of murder and sentenced to transportation for life by the Sessions Judge of Bellary. The case for the prosecution is that the deceased and P.W.4 two Marwadies, were on their way to the Railway Station of Gadiganur. The Marwadies had a considerable sum of money in notes and the appellants attacked them on the way killed the deceased, severely injured P.W.4 and took away the notes and cash in the possession of the deceased. That the deceased died of the injuries inflicted on him is proved beyond all reasonable doubt. P.W.4 also was very severely attacked and probably he was left for dead but after the thieves left the place he went to the village and told the people of what had happened. P.W.4 is the only eye witness

to the occurrence. He has given his evidence in a satisfactory way and there is no reason to doubt the truth of what he stated. The appellants 1 to 3 were persons known to Marwadies and therefore there can be no doubt as to the identification of ~~xxxx~~ accused 1 to 3. As regards the 4th accused there is this fact that certain notes were handed over by his mother to the Police. Though there is no proof that the notes found in the possession of the mother(P.W.11) of the 4th appellant were the notes that were in the possession of the deceased yet no explanation is offered by the 4th accused as regards the possession of these notes. Though the statement made by him before the Magistrate cannot be considered as a confessional statement in as much as he has not implicated himself to the full ~~xxxx~~ extent ashe has done the first accused yet there is this fact that the sum mentioned by him namely 80 Rupees is the actual sum of money that was handed over to the Police by the mother of the 4th appellant and therefore the evidence of P.W.11 can be safely accepted as true and that evidence distinctly connects the 4th appellant with the murder. The 3rd appellant also made a statement to the Magistrate which is not strictly a confessional statement. It is unnecessary to place any reliance on his statement. P.W.4 gave information as soon as he reached the village and no circumstance is elicited to prove that P.W.4 is not speaking the truth. The case is a clear one and the way in wh which the deceased and the 4th Prosecution witness were mutilated in a most brutal manner shows that there was something more behind, than what appears on the evidence.

We have no hesitation in agreeing with the learned Sessions Judge in holding the appellants

guilty of ruthless murder and we confirm the conviction and sentence and dismiss the appeal.

(Sd/-) Mir.Amir-ud-din,
Deputy Registrar,A.S.

(True copy)

Sub Assistant Registrar,A.D.

To

The Superintendent, Wellesley Sanatorium Jail,
Bellary.

(with reference to his letter No.988 dated 8th July 1952)..

MGR.

Dated 30th April 1925.

J u l g m e n t..

Criminal Appeal No.113 of 1925.

Confirming the convictions of
and the sentences passed on the prisoners
in Bellary Division Sessions Case No.59
of 1924

In the Court of Session of the Bellary Division.

The 28th day of January 1925.

Present:—SIDNEY BURN Esquire, I. C. S., Ag. Sessions Judge.

SESSION CASE No. 59 OF 1924.

R. v. { **1. Halti Basappa.** **3. Boya Bhima.**
2. Sampanni Porappa. **4. Madiga Iruga.**

Preliminary Enquiry No. 7 of 1924, committed by Mr. M. Sitarama Rao, Stationary Sub Magistrate of Hospet, Bellary District.

Assessors ... { 1. S. Angada Charlu, Brahmin.
2. T. Sreenivasa Rao, Brahmin.
3. N. Narasinga Rao, Brahmin.
4. D. Narasimha Charlu, Brahmin.

1st and 2nd Accused are defended by Mr. P. Siva Rao, Vakil.

3rd and 4th accused are defended by Mr. Kolar Venkoba Rao, Vakil, appointed by court.

Offences ... { *Against all the accused.*
1. Murder, under section 302, I. P. C.
Against 1st and 2nd accused only.
2. Voluntarily causing grievous hurt with a cutting instrument, under section 326, I. P. C.

Plea ... Not guilty.

Opinion of Assessors — { 1st Assessor :— Guilty as charged.
2nd Assessor :— { 1st & 2nd accused guilty under section 302, I. P. C.
3rd accused guilty under section 326, I. P. C.
4th accused not guilty of any offence.
3rd & 4th Assessors { 1st to 3rd accused guilty as charged.
4th accused not guilty of any offence.

Finding of Court { 1st and 2nd accused are guilty under sections 302 and 326 I. P. C; 3rd and 4th accused guilty under section 302, I. P. C.

Sentence ... { Each of the accused is sentenced to transportation for life under section 302, I. P. C. No separate sentence is passed on 1st and 2nd accused under section 326, I. P. C.

ó	Name of accused.	Father's name.	Caste or race.	Occupation.	Residence.	Age.
1	Halti Basappa	Komarappa	Lingayet	Cultivation	Talur, Hospet Taluk.	23
2	Sampanni Porappa	Basavana Gowd	do	do	do	22
3	Boya Bhima	Karilingappa	Boya	do	do	21
	Madiga Iruga	Latchmanna	Madiga	do	do	22

DATE OF :—

1.	Occurrence		18—9—1924.
2.	Complaint		18—9—1924.
3.	Arrest or appearance	1st and 2nd accused	9—10—1924.
		3rd accused	27—9—1924.
		4th accused.	25—9—1924.
4.	Commitment ...	...	1—12—1924.
5.	Commencement of tria	...	19—1—1925.
6.	Close of trial	...	24—1—1925.
7.	Explanation of delay.		

JUDGMENT

The four Accused in this case, (1) Halti Basappa, (2) Sampanni Porappa, (3) Boya Bhima, (4) Madiga Iruga have been charged with murder, Section 302, I. P. C., and the first two, Halti Basappa and Sampanni Porappa, have been further charged with voluntarily causing grievous hurt by means of a cutting instrument, Section 326, I. P. C. A third charge was framed that all the four jointly at the same time and place committed robbery, punishable under Section 392, I. P. C. The third offence charged being triable by Jury, while the first two are triable with the aid of Assessors, I ordered that trial of the third offence should be stayed pending the result of the trial of the first two, to avoid the inconvenience of holding a trial by jury simultaneously with a trial with the aid of Assessors.

2. The murder and the grievous hurt for which the Accused are being tried, were committed on the evening of Thursday the 18th September 1924. The murdered man Kesaji was a Marwadi merchant, in business with his brothers at Talur, a village in Hospet Taluk about five miles to the south of the railway station of Gadiganur. He was murdered at a place on the cart-track from Talur to Gadiganur a little more than three miles from Talur, as he was going with his nephew Punnamchand (p. w. 4) to the railway station. The two Marwadis were intending to go to the Friday shandy at Bellary, to buy stock for the cloth and grain shops which they keep at Talur. The elder man, who was murdered, was carrying with him Rs. 880 in notes and Rs. 7 in coin, and as after the murder no notes were found on his body, it seems a reasonable inference that the motive of the attack was robbery.

3. There is only one direct witness p. w. 4 the nephew of the murdered man. He has described how he and his uncle left the village at about 5 p. m. to walk to the railway station at Gadiganur. About three miles from Talur they were overtaken by the four Accused of whom the 1st and 2nd had sickles in their hands. The Accused were known to the Marwadis and all six persons together proceeded in the direction of Gadiganur. Near a small stream which crosses the cart-track, the 1st Accused suddenly seized p. w. 4 round the neck, began to throttle him and threw him to the ground. The 2nd Accused came up and with his sickle slashed at the private parts of p. w. 4. and then both of them dragged him off the cart-track and threw him down amongst some small bushes, probably believing him dead, or dying. Meanwhile the other two Accused had caught hold of the elder man, Kesaji. P. w. 4 says that he himself lost consciousness, and that is not improbable seeing that the whole of his scrotum had been cut off, and one spermatic cord had been cut. But his unconsciousness could not have lasted long because he came to himself in time to see all the four Accused struggling over the body of his uncle Kesaji. P. w. 4 was in no condition to help Kesaji but he did manage to make his own escape, and he got back to his home about 9 p. m. looking behind him all the way for fear the robbers should be after him again.

4. He told another uncle Vanchaji (p. w. 5) who at once informed the village Reddi (p. w. 21) who came with the Karnam (p. w. 20) and recorded a statement from p. w. 4 (Exhibit T). The houses of these four accused were at once visited, and none of them was found at home. Then the Reddi proceeded to the scene of the crime, and found there the dead body of Kesaji, with the throat cut, and the genital organs missing. The Reddi and his party, leaving some persons to watch the corpse, went on to Gadiganur, whence a telegram (Exhibit S) was sent to the Stationary Sub Magistrate, Hospet. Then they went with the Reddi of Gadiganur (p. w. 19) to the Police Station at Gadiganur, where they gave their information to the Sub Inspector of Police (p. w. 22). He recorded it in the First Information Report (Exhibit VII) and then went with the Reddi (p. w. 21), Karnam (p. w. 20) and other persons from Talur, to investigate the crime.

5. The accused were not found for several days. On the 25th September the 4th accused, Iruga, was arrested by p. w. 12 and a Vettiyan, lurking in the fields, and was produced before the Stationary Sub-Magistrate, Hospet. On the 27th September the 3rd accused Bhima was caught in another field by p. w. 10 and another man, and was taken to the Police Station at Gadiganur. The accused 1 and 2 surrendered themselves before the Stationary Sub-Magistrate, Hospet, some days later.

6. The case against all the accused rests mainly upon the evidence of p. w. 4 the young Marwadi, who escaped miraculously with his life, but with only one testicle. If his evidence is believed the accused are certainly guilty of the offences with which they have been charged. This youth was cross-examined at great length, but nothing was elicited which could discredit his evidence. The only discrepancy worth noticing, and the only difficult point in the case, is that whereas this witness now says that there were only four robbers, and those the present Accused, the Reddi's earliest report (Exhibit T) and the telegram (Exhibit S) despatched to the Stationary Sub Magistrate from Gadiganur, mention six and five persons, respectively. The Reddi (p. w. 21) and the Karnam (p. w. 20 who wrote Exhibit T) say that p. w. 4 when questioned the same night, named the first three Accused, said there was a fourth, a Madiga whom he could recognize, "and two other unknown persons". The telegram Exhibit S was written out by the Karnam, and he says in evidence that he intended to say the same in the telegram, though in fact the telegram says "Harti Basappa, Samapanni Porappa, Boy Bhema and two unknown persons". But p. w. 4 maintains that he did not mention "two unknown persons" at all at any time. His demeanour in the witness box was very good. He exhibited no confusion of any kind when he was asked about this discrepancy; he merely said that he had always mentioned four robbers and no more. And he is corroborated by his uncle (p. w. 5) who was present when he made his statement to the Reddi. The discrepancy is I think susceptible of an easy explanation. P. w. 4 is a Marwadi. Kanarese, the language in which he is said to have given his statement (Exhibit T) to the Reddi and the Karnam, is a foreign language to him. At 9 p. m. on the night of the murder, he was himself suffering from intense pain and labouring under the excitement of his own narrow escape, and was in no condition to be narrowly cross-examined. He was giving his account in a foreign language, and there can be no doubt but that he was misunderstood by the Reddi and the Karnam. His uncle (p. w. 5) to whom he would speak in his native tongue, says quite definitely that he only mentioned four robbers; the Sub Inspector of Police (p. w. 22) who is a Muhammadan and who speaks Hindustani, Prosecution 4th witness' own language, examined him at 3 a. m. the next day, and to

12

him p. w. 4 certainly mentioned four persons and no more. It is not improbable that the Reddi and the Karnam said "How many persons altogether?" and p. w 4 replied "Six", meaning that including himself and his uncle there were altogether six persons on the scene at once, but misunderstood by the Reddi and the Karnam as meaning six robbers.

7. Apart from this there is no discrepancy worth consideration. There is also ample corroboration of p w. 4's account from other sources. The 3rd and 4th Accused gave statements to the Stationary Sub Magistrate, Hospet, on the 9th and 4th of October 1924 respectively, which the Stationary Sub Magistrate (p. w. 3) has proved here as Exhibits G and F. Of these Exhibit F, the statement of the 4th Accused is an exculpation, and can be considered only as against himself, but Exhibit G is a real confession by the 3rd Accused Bhima and it can be taken into consideration as against the other Accused as well. My attention has been drawn to a long list of rulings of High Courts on the subject of confessions. These need not be referred to in detail as there is not one which would necessitate the exclusion of the confession of the 3rd Accused. He has described the whole occurrence and has admitted as against himself that he stood watching the elder Marwadi while the other three disposed of the younger (p. w. 4). On this statement he could certainly be convicted of abetment of murder done in his own presence, and his confession is clearly admissible and can be taken into consideration as against the other three Accused also.

8. Further corroboration is provided by the mothers (p. ws. 14 and 11) of the 3rd and 4th Accused respectively, who produced currency notes secretly given to them by their sons a few days after the crime, and represented by their sons to be their shares of the proceeds of the robbery, or their wages for the parts played by them. The brother (p. w. 13) of the 4th Accused further corroborates this part of the story. There is also corroboration in the conduct of all the Accused, who all suddenly and simultaneously disappeared from their homes and their usual places of resort, and could not be found for several days, though proclamations were made in the village.

9. The Accused denied the offence and asserted that the Reddi (p. w. 21) had instigated the concoction of the case against them. The cross-examination of the Reddi and of all the other prosecution witnesses who live in Talur quite failed to reveal any enmity or ground of enmity between the Reddi and the Accused. No attempt has been made to prove any enmity. The 3rd and 4th Accused further stated that their confessions were made under the stress of fear induced by Police torture. The Stationary Sub Magistrate (p. w. 3) proved that the 4th Accused was never in the custody of the Police at all, and that the 3rd Accused was only in the custody of the Police on one day, viz., 27-28th September. The "confession" of the 4th Accused was recorded on the 4th October, i. e., nine days after he had been in the custody of the Stationary Sub Magistrate in the Sub Jail. The confession of the 3rd Accused was recorded on the 9th October, which was 11 days after he had left Police custody. The Stationary Sub Magistrate took the utmost precautions to give these two Accused ample opportunity to reflect on the nature of the act they were about to do; he specifically asked them whether they had been beaten or in any way harassed by the Police and they denied it. Their subsequent statements that they were tortured are clearly false and must be disregarded. There is thus nothing whatever on behalf of the accused to rebut the case against them.

13

10. The 1st, 3rd and 4th Assessors are of opinion that the first two Accused are guilty of the offences with which they were charged. The 2nd Assessor thinks that the first two Accused are guilty of murder. Three Assessors consider the 3rd Accused guilty of murder and the remaining Assessor finds him guilty of grievous hurt with which he was not charged. One Assessor is of opinion that the fourth Accused Iruga also is guilty of the offence of murder charged against him. The other three think that the fourth Accused is not guilty of any offence. This opinion must, I think, be due to a too kind acceptance of the 4th Accused's own statement as true in every particular. I cannot agree with this. His own statement corroborates p. w. 4's evidence that he was present when the murder was done. P. w. 4's evidence is that he as well as the 3rd Accused seized Kesaji and held him and the 3rd Accused's confession also involves the 4th Accused in the actual murder. Moreover it is proved that the 4th Accused received Rs. 80, exactly the same amount as the 3rd Accused, and this fact is enough to show that he had not played the part he gives himself of a protester against the crime.

11. There can be no doubt whatever in this case. All the four Accused have clearly joined together to commit a dastardly murder in a cruel and revolting manner. It is merely the good fortune of Punnamachand (p. w. 4) that he also was not murdered outright. As it is, he has been maimed for life.

12. I convict all the four Accused of the offence of murder (Section 302, I. P. C) with which they were charged. As it is impossible to say which of them actually struck the blow which killed Kesaji, I sentence them all to transportation for life. I convict the first two Accused also of the offence of voluntarily causing grievous hurt with a cutting weapon (Section 326, I. P. C.) with which they were charged. In view of the sentence of transportation for life passed on the first charge, it is not necessary to impose a separate punishment for this offence. If it had been, considering the peculiarily brutal nature of their crime, I should have imposed the same sentence of transportation for life.

(Signed) SIDNEY BURN,
Ag. Sessions Judge.

N. B.—The prisoners have been committed to the Central Jail, Bellary.

The following witnesses were exan :—

For prosecution.

1.	K. V. Dhanakoti Nayudu.	2.	Talavara Basya.
2.	Shaik Sahib.	3.	Kari Ninga.
3.	M. Sitarama Rao.	14.	Hanumakka.
4.	Punnamchand.	15.	Allavva.
5.	Vanchaji.	16.	Lingana Gowd.
6.	Sanna Hussain Sahib.	17.	Santhappa.
7.	Hussaini.	18.	Doddayya.
8.	Hosahalli Iruga.	19.	N. Doddana Gowd.
9.	Iswaramma.	20.	Sanjiva Rao.
10.	Mowla Sahib.	21.	Doddana Gowd.
11.	Madiga Basakka.	22.	Abdul Gaffur Sahib

For defence.

Nil.

The following exhibits were filed

For prosecution.

A/19-9-1924. Telegram to the Medical Officer, Hospet by the Police.
B/21-9-1924. Wound certificate granted to Punnamchand (p. w. 4).

C/20-9-1924. Post Mortem Certificate.

D/28-9-1924. Notes of the Medical Officer in Sub Jail Register regarding the injuries on the person of Boya Bhima (3rd accused).

E/29-9-1924. Notes of the Medical Officer in Sub Jail Register regarding the injuries on the person of Madiga Iruga (4th Accused).

F/4-10-1924. Confessional statement recorded by the Stationary Sub Magistrate of Hospet from Madiga Iruga (4th Accused).

G/9-10-1924. Confessional statement recorded by the Stationary Sub Magistrate of Hospet from Boya Bhima (3rd Accused).

H/19-9-1924. Statement of Punnamchand (p. w. 4) before the Stationary Sub Magistrate of Hospet.

J/19-9-1924. Statement of Punnamchand (p. w. 4) before the Police.

K/20-9-1924. Sworn statement made by Sanna Hussain Sahib (p. w. 6) before the Stationary Sub Magistrate of Hospet at Talur.

L/20-9-1924. Sworn statement made by Hussaini (p. w. 7) before the Stationary Sub Magistrate of Hospet at Talur.

M/20-9-1924. Sworn statement made by Iswaramma (p. w. 9) before the Stationary Sub Magistrate of Hospet at Talur.

N/27-9-1924. Panchayatnama prepared for the production of Currency notes of the value of Rs. 65 by Hanumakka (p. w. 14).

O/28-9-1924. Panchayatnama prepared for the production of Currency notes of the value of Rs. 70 by Madiga Basakka (p. w. 11).

P/28-9-1924. Panchayatnama prepared for the production of Currency notes of the value of Rs. 25 by Kari Lingappa (p. w. 13).

Q/20-9-1924. Sworn statement made by Doddayya (p. w. 10) before the Stationary Sub Magistrate of Hospet at Talur.

R/19-9-1924. Inquest report.

S/19-9-1924. Telegram sent by Doddana Gowd (p. w. 21), Village Magistrate of Talur to the Stationary Sub Magistrate of Hospet.

T/18-9-1924. Village Magistrate's report embodying the complaint of Punnamchand (p. w. 4) to the Police.

U/18-9-1924. Panchayatnama prepared for the search of the houses of 1st to 4th accused in order to arrest them.

W/23-9-1924. Plan of the scene of the offence and its surroundings.

Y/6-11-1924. Deposition of N B. Morris, Assistant Surgeon of Bellary before the Committing Magistrate.

Z/7-10-1924. Panchayatnama prepared for the identification of Madiga Iruga (4th Accused) by Punnamchand (p. w. 4) at Bellary Hospital.

A.A/26-11-1924 and 29-11-1924. Statement made by the 1st prisoner before the Committing Magistrate.

B.B/26-11-1924 and 29-11-1924. Statement made by the 2nd prisoner before the Committing Magistrate.

C.C/26-11-1924 and 29-11-1924. Statement made by the 3rd prisoner before the Committing Magistrate.

D.D/26-11-1924 and 29-11-1924. Statement made by the 4th prisoner before the Committing Magistrate.

15

For Defence.

I/1-10-1924. Requisition letter from the Police to the Stationary Sub Magistrate, Hospet requesting to record the statements of Accused 3 and 4 under Section 164 of the Code of Criminal Procedure.

II/30-10-1924. Portion marked in the deposition of Sanna Hussain Sahib (p. w. 6) as P. w. 3 before the Committing Magistrate.

III/30-10-1924. Portion marked in the deposition of Hosahalli Iruga (p. w. 8) a p. w. 5 before the Committing Magistrate.

IV/5-11-1924. Portion marked in the deposition of Mowla Sahib (p. w. 10) a p. w. 7 before the Committing Magistrate.

V/5-11-1924. Deposition of Hanumakka (p.w. 14) as p. w. 9 before the Committing Magistrate. 10

VI/5-11-1924. Deposition of Allavva (p. w. 15) as p. w. 10 before the Committing Magistrate.

VII/18-9-1924. First information report.

Material objects produced in evidence:—

1. (series): 8 Gunny bags.
2. Deceased's Dhoti.
3. Red turban.
4. Shawl.
5. Bed sheet (quilt).
6. Dhoti.
7. White turban.
8. Umbrella.
9. Envelope.
10. Gold ear-chain.
11. 7 Currency notes (6 of Rs. 10 each and 1 of Rs. 5). 20
12. Tin box.
13. Gunny piece.
14. A pair of chada (shoe).

(Signed). SIDNEY BURN,
Ag. Sessions Judge.

(True copy).

Sheristadar.

No. of words. 3421.

Charges Rs. 5—4—0.

To

The Superintendent Central jail

Bellary

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